



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA

ZONING MAP CHANGE REPORT



A protest petition has been received for this application and has been found to be valid by the Planning Director.

Meeting Date: February 18, 2013

Table A. Summary			
Application Summary			
Case Number	Z1200006	Jurisdiction	City
Applicant	Nickolaos Bourbous	Submittal Date	March 20, 2012
Reference Name	2125 Guess Road 2	Site Acreage	0.348
Location	2125 and 2131 Guess Road, north of Broad Street and Sunset Avenue.		
PIN(s)	0822-06-37-6672, 0822-06-37-6636		
Request			
Proposed Zoning	Commercial Neighborhood with a development plan (CN(D)) Residential Urban – 5 with a development plan (RU-5(D))	Proposal	Unspecified commercial and unspecified residential
Site Characteristics			
Development Tier	Urban		
FLUM Land Use Designation	Commercial, Medium Density Residential		
Existing Zoning	Office/Institutional (OI), Residential Urban – 5 (RU-5)		
Existing Use	Office, Single-Family Residential		
Overlay	N/A	Drainage Basin	Falls Lake
River Basin	Neuse	Stream Basin	Ellerbe Creek
Determination/Recommendation/Comments			
Staff	Staff determines that this request is consistent with the <i>Comprehensive Plan</i> and other adopted policies and ordinances.		
Planning Commission	Denial, 7-7 on November 13, 2012. The Planning Commission finds that the ordinance request is consistent with the adopted <i>Comprehensive Plan</i> . However, the Commission believes the request is not reasonable nor in the public interest and recommends denial based on inconsistency with neighboring land uses and opposition from the community.		
DOST	None provided		
BPAC	None provided		

A. Summary

This is a request to change the zoning designation of a 0.348-acre split-zoned, two parcel site from OI and RU-5 to CN(D) and RU-5(D). The two subject properties are located at 2125 and 2131 Guess Road, north of Broad Street and Sunset Avenue (see Attachment 1, Context Map). The 0.178-acre property at 2125 Guess Road is currently zoned OI and is proposed to be rezoned to CN(D). The 0.170-acre property at 2131 Guess Road is currently zoned RU-5 and is proposed to be rezoned to RU-5(D). This request is consistent with the future land use designation of the *Comprehensive Plan* which designates the parcel at 2125 Guess Road as Commercial and the parcel at 2131 Guess Road as Medium-Density Residential (6-12 Dwelling Units/Acre). Appendix A provides supporting information.

B. Site History

The applicant previously applied for a zoning map change for the property located at 2125 Guess Road on September 12, 2011 as case number Z1100023. This request proposed changing the zoning of the subject property from OI to CN without a development plan. The case was heard the Planning Commission on November 15, 2011 and an approval motion failed, 0-9. The Planning Commission found the request to be consistent with the *Comprehensive Plan*, however it believed the request was not reasonable nor in the public interest and recommended denial based on its inconsistency with neighboring land uses and opposition from the community.

The applicant submitted a new request as case number Z1200006 on March 20, 2012, which proposed rezoning the property at 2125 Guess Road from OI to CN(D). After receiving Planning staff comments regarding this proposal, the applicant resubmitted the request to address these comments. The resubmitted request included the additional property at 2131 Guess Road, proposing to rezone this property from RU-5 to RU-5(D) as part of the overall request. This property is also owned by the applicant and was included in the resubmitted request in order to remove project boundary buffer requirements that would have been imposed on the proposed CN(D) property at 2125 Guess Road. Since both of these properties are proposed to be part of one development plan, project boundary buffers are not required between these two properties.

C. Review Requirements

Planning staff has performed a sufficiency review for this Zoning Map Change request (reference UDO Sec. 3.2.4, Application Requirements [general] and 3.5.5, Application Requirements [for a Zoning Map Change]). This staff report presents the staff findings per Sec. 3.5.8, Action by the Planning Director, on the request's consistency with the Unified Development Ordinance and applicable adopted plans.

This review is based primarily on compliance with any applicable laws, plans, or adopted policies of City Council. Any issues or concerns raised in this report are based on best

professional planning practice unless they have a basis in adopted plans, policies, and/or laws.

D. Unified Development Ordinance (UDO) Compliance

This request is consistent with the requirements of the Unified Development Ordinance. The associated development plan (Attachment 4, Development Plan reduction) provides the required elements for zoning map change requests in the CN and RU-5 districts (Section 3.5.6D, Section 6.10.1C2, and Section 6.4.1). In addition, commitments in excess of UDO requirements have been made (see Appendix D for supporting information):

Graphic Commitments. Elements depicted on a development plan (including but not limited to labels and descriptive information) become commitments. A summary of graphic commitments (see Table D5, Summary of Development Plan) includes: site access points, maximum impervious surface of 0.14-acre (80%) for each property, a structure of no greater than 1,500 square feet on the 2125 Guess Road property, a structure of no greater than 1,250 square feet on the 2131 Guess Road property, a 15-foot project boundary buffer (if reduced by 25%) along the rear property line of 2125 Guess Road that adjoins the property located at 1802 Sunset Avenue. These graphic commitments are depicted on the Proposed Development Plan which is included as Sheet DP 2.0 of Attachment 4.

Design Commitments. Nonresidential structures require design commitments accompanying a zoning map change when a development plan is included. As such, design commitments are required to be made for this site. The design commitments of this proposal include both the nonresidential and residential property. They include:

1.a) The buildings use the minimal traditional house style. No changes are proposed to the architectural style of the structures.

b.) Roof will be pitched with asphalt shingles.

c.) The homes have asymmetrical street facing façade, a low-pitched, or cross gable roof.

2.) The existing buildings are an example of the typical architectural style of the immediate vicinity and surrounding neighborhood extending to the north and east of the site, consisting of both minimal traditional and ranch style houses.

Determination. The proposed zoning map change would bring the 2125 Guess Road property into consistency with the Future Land Use Map of the *Comprehensive Plan*. Presently, the 7,753 square foot lot is non-conforming because it does not meet the 20,000 square foot minimum lot size required in the OI district. The minimum lot size in the CN zoning district is 5,000 square feet.

The requested CN and RU-5 zoning districts and associated development plan meet or exceed the applicable requirements of the UDO. If this zoning map change request is

approved, the attached development plan (Attachment 4) shall establish the level of development allowed on these properties.

E. Adopted Plans

A zoning map change request shall be consistent with the *Comprehensive Plan*. As such, other adopted plans have been included by reference in this document. Table E, Adopted Plans, in Appendix E identifies the applicable policies of the *Comprehensive Plan* and other adopted plans included by reference.

Determination. The requested zoning districts are consistent with Future Land Use Map as well as other applicable policies of the *Comprehensive Plan*.

F. Site Conditions and Context

Site Conditions. The property at 2125 Guess Road currently contains a 1,121 square-foot structure which is presently vacant. The last legal use on the site was an office use. There is an existing gravel parking area in the rear of the structure, with gravel driveway access to Guess Road. The property at 2131 Guess Road currently consists of an 875 square-foot single-family residential structure and a gravel driveway which is accessed from Guess Road.

Area Characteristics. This site is in the Urban Tier and is located at the edge of a commercial and office node centered on the intersection of Guess Road and Broad Street.

Appendix F provides a summary of the uses and zoning in the more immediate vicinity of the subject site.

Determination. The proposed CN(D) and RU-5(D) districts meet the ordinance and policy requirements in relation to site and context. The property at 2125 Guess Road is the last parcel to be designated Commercial in the *Comprehensive Plan* along the west side of Guess Road when heading northwest from the Broad Street and Sunset Avenue intersection. Planning staff would not recommend commercial development on the parcels designated as Low-Medium Density Residential along Guess Road that are northwest of 2125 Guess Road parcel. The 2125 Guess Road property is directly across the street from a retail establishment and is located on the edge of the commercial node surrounding the Guess Road and Broad Street intersection. This is a reasonable request given the surrounding uses. However, certain uses permitted in the CN District such as convenience stores with fuel sales, nightclubs, or drive-through facilities would not be reasonable uses for the site and would not be recommended for approval by Planning staff.

G. Infrastructure

The impact of the requested change has been evaluated to suggest its potential impact on the transportation system, water and sewer systems, and schools. In each case, the

impact of the change is evaluated based upon a change from the most intense development using the existing land use and zoning to the most intense use allowed under the request.

See Appendix G for additional information.

Determination. The proposed CN(D) and RU-5(D) districts are consistent with *Comprehensive Plan* policies regarding infrastructure impacts of road, transit, utility, drainage/stormwater, schools and water supply.

H. Staff Analysis

Staff has determined that this request is consistent with the *Comprehensive Plan* and other adopted policies and ordinances.

I. Contacts

Table I. Contacts		
Staff Contact		
Scott Whiteman, Planning Supervisor	Ph: 919-560-4137, ext. 28253	scott.whiteman@durhamnc.gov
Applicant Contact		
Robert Shunk	Ph: 919-286-7440	rshunk@hadenstanziale.com

J. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Inter-Neighborhood Council
- Partners Against Crime – District 2
- Ellerbee Creek Watershed Association
- Friends of Durham
- Unity in the Community for Progress
- Watts Hospital-Hillandale Neighborhood Association
- Peoples Alliance
- Pennsylvania Avenue Neighborhood Group
- Fayetteville Street Planning Group
- Walltown Community Association

K. Summary of Planning Commission Meeting of November 13, 2012 (Case Z1200006)

Zoning Map Change Request: From OI and RU-5 to CN(D) and RU-5(D)

Staff Report: Mr. Burdick presented the staff report.

Public Hearing: Vice Chair Monds opened the public hearing. Three spoke in support and two against. Vice Chair Monds closed the public hearing.

Commission Discussion: Discussion centered on permitted uses and buffers.

Motion: Approval of Z1200018 (Mr. Davis and Mr. Smudski 2nd)

Action: Motion failed 7-7, Mr. Whitley, Mr. Martin, Mr. Monds, Mr. Harris, Ms. Winders, Ms. Mitchell-Allen and Ms. Board voting no.

Findings: The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. However, the Commission believes the request is not reasonable nor in the public interest and recommends denial based on inconsistency with neighboring land uses and opposition from the community.

L. Supporting Information

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: 1. Context Map 2. Future Land Use Map 3. Aerial Photography 4. Development Plan Reduction 5. Application 6. Owner's Acknowledgement 7. Submittal and Review History
Appendix B	Site History	N/A
Appendix C	Review Requirements	N/A
Appendix D	Unified Development Ordinance	Table D1: Designation Intent Table D2: District Requirements Table D3: Environmental Protection Table D4: Project Boundary Buffers Table D5: Summary of Development Plan
Appendix E	Adopted Plans	Table E: Adopted Plans
Appendix F	Site Conditions and Context	Table F: Site Context

Appendix G	Infrastructure	Table G1: Road Impacts Table G2: Transit Impacts Table G3: Utility Impacts Table G4: Drainage/Stormwater Impacts Table G5: School Impacts Table G6: Water Impacts
Appendix H	Staff Analysis	N/A
Appendix I	Contacts	N/A
Appendix J	Notification	N/A
Appendix K	Summary of Planning Commission Meeting	Attachments: 8. Planning Commissioner's Written Comments 9. Ordinance

Appendix A: Application Supporting Information

Attachments:

1. Context Map
2. Future Land Use Map
3. Aerial Photography
4. Development Plan Reduction
5. Application
6. Owner's Acknowledgement
7. Submittal and Review History

Appendix D: Unified Development Plan Supporting Information

Table D1. UDO Designation Intent	
CN	Commercial Neighborhood: The CN district is established to provide for modest-scale commercial centers in close proximity to residential areas that offer limited commercial uses to satisfy the needs of the surrounding neighborhood; each lot is limited to 20,000 square feet of project floor area. While CN is a commercial district, other uses such as residential and office may also be allowed.
RU-5	Residential Urban 5: The RU-5 district is established to provide for orderly urban residential development and redevelopment with a minimum lot size of 5,000 square feet. A variety of single-family housing types and townhouses are permitted. While RU-5 is a residential district, certain nonresidential uses such as day care facilities and places of worship may be sought through a special use permit or other limited provisions of the ordinance.

D	<p>Development Plan: The letter “D” following a zoning district indicates that a development plan has been included with a zoning map change request. This designation may be added to any zoning map change request to signify that a conceptual representation of the proposed site has been submitted that indicates how the proposed development could meet ordinance standards. Any significant change to the development plan would require a new zoning petition.</p>
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Table D2. District Requirements CN			
	Code Provision	Required	Proposed
Minimum Site Area (square feet)	6.10.1.C	5,000	7,754
Minimum Lot Width (feet)	6.10.1.C	50	60
Maximum Project Floor Area (square feet)	6.10.1C	20,000	1,500
Maximum Street Yard (feet)	6.10.1C	15	12
Minimum % of Frontage	6.10.1C	60	60
Minimum Side Yard (feet)	6.10.1C	10	10
Minimum Rear Yard (feet)	6.10.1C	25	29
Maximum Building Coverage (%)	6.10.1C	60	24.6
Maximum Height (feet)	6.10.1C	35	35
District Requirements RU-5			
	Code Provision	Required	Proposed
Maximum Residential Density (DU/Acre)	6.4.1A	7.4	7.14
Maximum Height (feet)	6.4.1A	35	35
Minimum Open Space (% of gross area)	6.4.1A	5	5
Minimum Lot Area (square feet)	7.1.2	5,000	7,405
Minimum Lot Width (feet)	7.1.2	45	60
Minimum Street Yard (feet)	7.1.2	20	20.5
Minimum Single Side Yard (feet)	7.1.2	6	6
Minimum Total Side Yard (feet)	7.1.2	15	19.5
Minimum Rear Yard	7.1.2	25	40

Table D3. Environmental Protection			
Resource Feature	UDO Provision	Required	Proposed
Minimum Tree Coverage (%)	8.3.1C	N/A (site is less than four acres and in the urban tier)	not shown
Maximum Impervious Surface (%)	8.7.2B	N/A (site is not within a watershed protection overlay district)	80 (12,127 square feet)
Table D4. Project Boundary Buffers			
Cardinal Direction	Adjacent Zone	Required Opacity	Proposed Opacity
North	RU-5	N/A (no buffer requirements between proposed RU-5(D) and RU-5)	N/A
	CN(D)	N/A (right of way is > 60 feet wide)	N/A
East	OI	N/A (no buffer requirements between proposed CN(D) and OI)	N/A
	CN(D)	N/A (right of way > 60 feet wide)	N/A
South	OI	N/A (no buffer requirements between proposed CN(D) and OI)	N/A
	RU-5	N/A (no buffer requirements between proposed RU-5(D) and RU-5)	N/A
West	RU-5	N/A (no buffer requirements between proposed RU-5(D) and RU-5)	N/A
	RU-5	0.6	0.4 (15-feet if reduced per UDO Section 9.4.5C1)

Table D5. Summary of Development Plan		
Components	Description	Development Plan Sheet
Required Information	Intensity/Density. 1,500 square foot building on the CN(D) parcel, 1,250 square foot building on the RU-5(D) parcel.	DP-2.0
	Building/Parking Envelope. Building and parking envelopes are appropriately identified.	DP-2.0

Table D5. Summary of Development Plan		
	Project Boundary Buffers are appropriately identified. The identified buffer is shown at a reduced width per UDO 9.4.5C1 (Intense Buffer Alternative).	DP-2.0
	Stream Crossing. Not applicable	N/A
	Access Points. Two (2) site access points are identified.	DP-2.0
	Dedications and Reservations. None proposed.	N/A
	Impervious Area. 80% = 12,127 square feet.	DP-2.0
	Environmental Features. None identified	N/A
	Areas for Preservation. There were no conditions identified that require preservation.	N/A
	Tree Coverage. Not applicable	n/a
Graphic Commitments	<ul style="list-style-type: none"> -Two site access points -Maximum impervious surface of 0.14-acre (80%) for each property -A structure of no greater than 1,500 square feet on the 2125 Guess Road property -A structure of no greater than 1,250 square feet on the 2131 Guess Road property -A 15-foot project boundary buffer (if the Intense Buffer Alternative is used) along the rear property line of 2125 Guess Road that adjoins the property located at 1802 Sunset Avenue. 	DP-2.0
Text Commitments	None provided	n/a
SIA Commitments	None provided	n/a
Design Commitments	<p>1.a.) The existing buildings use the minimal traditional house style. No changes are proposed to the architectural style of the structures.</p> <p style="padding-left: 40px;">b.) Roofs will be pitched with asphalt shingles.</p> <p style="padding-left: 40px;">c.) The homes have asymmetrical street facing façade, a low-pitched, or cross gable roof.</p> <p>2.) The existing buildings are an example of the typical architecture style of the immediate vicinity and surrounding neighborhood extending to the north and east of the site, consisting of both minimal traditional and ranch style houses.</p>	Cover

Appendix E: Adopted Plans Supporting Information

Table E. Adopted Plans	
<i>Comprehensive Plan</i>	
Policy	Requirement

Future Land Use Map	<p>Commercial: land designated for retail, entertainment, office, and service uses.</p> <p>Urban Tier: established to describe land primarily developed prior to the 1960s with small lot sized in traditional grid patterns and differing uses in proximity to one another, with access to urban services and opportunities for infill and redevelopment.</p>
Future Land Use Map	<p>Medium Density Residential (6-12 dwelling units per acre)</p> <p>Urban Tier: established to describe land primarily developed prior to the 1960s with small lot sized in traditional grid patterns and differing uses in proximity to one another, with access to urban services and opportunities for infill and redevelopment.</p>
2.2.3d	Urban Tier Commercial Development: Discourage auto-oriented commercial “strip” development and instead encourage pedestrian-oriented “nodes” and, where appropriate, pedestrian friendly “linear” corridors of commercial development and infill.
2.2.3e	Urban Tier Spacing of Commercial Nodes: Separate distinct nodes of commercial development by a distance of at least one-half (1/2) mile; cluster commercial uses at intersections of thoroughfares; restrict new, isolated, mid-block commercial uses, unless compatible with surrounding uses.
3.4.2c	Residential Density: Guide the development of revitalization plans to ensure that, where appropriate, they provide appropriate densities to maximize utilization of existing infrastructure and the utilization and efficiency of existing or proposed transit systems.
8.1.2j	Transportation Level of Service Maintenance: Not recommend approval for any zoning map change which would result in the average daily trips exceeding 110% of the adopted level of service standards for any adjacent road, unless the impact on the adjacent roads is mitigated.
9.4.1a	Water Quantity Level of Service Standard: New development will not increase the post-development peak runoff rate from the one-year storm over the predevelopment peak runoff rate by more than 10 percent.
9.4.1b	Water Quality Level of Service Standard: The City and County shall establish a level of service standard for nutrient and other pollutant export from new development. These standards shall meet or exceed the limits adopted for Jordan and/or Falls lakes by the North Carolina Environmental Management Commission and/or the North Carolina General Assembly.
11.1.1a	School Level of Service Standard: The level of service for public school facilities shall be established as a maximum enrollment of 110 percent of the system’s maximum permanent building capacity, measured on a system-wide basis for each type of facility.

Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Retail, Single-family residential	RU-5, CN(D)	N/A
East	Retail, Office, Bank	OI, CN(D)	N/A
South	Office, Single-family residential	OI, RU-5, RS-8, CN	N/A
West	Single-family residential	RU-5	N/A

Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts		
Guess Road and Broad Street are State controlled and are the major roads impacted by the proposed zoning change. There are no scheduled City of Durham or NCDOT roadway improvement projects in the area.		
Affected Segments	Broad Street	Guess Road
Current Roadway Capacity (LOS D) (AADT)	21,600	24,900
Latest Traffic Volume (AADT)	12,000	14,000
Traffic Generated by Present Designation (average 24 hour)*	*53	
Traffic Generated by Proposed Designation (average 24 hour)**	**76	
Impact of Proposed Designation	+23	

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2009)

Guess Road: 4-lane undivided class II arterial without left-turn lanes

Broad Street: 4-lane undivided City/County Signalized Roadway

Source of Latest Traffic Volume: 2011 NCDOT Traffic Count Map

***Assumption-** (Max Use of Existing Zoning) – OI: 1,200 sf medical-dental office; RU-5: one single-family lot

**** Assumption-** (Max Use of Proposed Zoning) – CN(D): 1,500 sf specialty retail; RU-5(D): one single-family lot

Table G2. Transit Impacts
Transit service is currently provided adjacent to the site along Guess Road via DATA Route #1.

Table G3. Utility Impacts
This site is served by City water and sewer.

Table G4. Drainage/Stormwater Impacts
The impacts of any change will be assessed at the time of site plan review.

Table G5. School Impacts			
The proposed zoning is not estimated to generate any students. Durham Public Schools serving the site are E.K. Powe Elementary School, Brogden Middle School, and Riverside High School.			
Students	Elementary School	Middle School	High School
Current Building Capacity	15,864	8,647	9,916
Maximum Building Capacity (110% of Building Capacity)	17,450	9,512	10,908
20th Day Attendance (2011-12 School Year)	15,827	7,008	9,686
Committed to Date (July 2009 through June 2012)	384	124	81
Available Capacity	1,239	2,380	1,141
Potential Students Generated – Current Zoning*	1	0	0
Potential Students Generated – Proposed Zoning**	0	0	0
Impact of Proposed Zoning	-1	0	0

***Assumption-** (Max Use of Existing Zoning) –OI: 2 multiplex units, RU-5: 1 single-family unit

** **Assumption-** (Max Use of Proposed Zoning) – CN(D): 1 single-family unit, RU-5(D): 1 single-family unit

Table G6. Water Supply Impacts
This site is estimated to generate a total of 342.5 GPD if developed to its maximum potential with the proposed zoning district. This represents an increase of 97.5 GPD increase over the existing zoning district.

Current Water Supply Capacity	37.00 MGD
Present Usage	28.06 MGD
Approved Zoning Map Changes (July 2009 through June 2012)	0.70 MGD
Available Capacity	8.24 MGD
Estimated Water Demand Under Present Zoning*	245 GPD
Potential Water Demand Under Proposed Zoning**	342.5 GPD
Potential Impact of Zoning Map Change	+97.5 GPD

Notes: MGD = Million gallons per day

***Assumption-** (Max Use of Existing Zoning) –OI: 1,200 square feet of office, RU-5: 1 single-family unit

**** Assumption-** (Max Use of Proposed Zoning) – CN(D): 1,500 square feet retail, RU-5(D): 1 single-family unit

Appendix K: Summary of Planning Commission Meeting

Attachments:

- 8. Planning Commissioner's Written Comments
- 9. Ordinance